

AMENDED IN ASSEMBLY APRIL 7, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2717**

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**Introduced by Assembly Member Skinner**

February 19, 2010

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~~An act to amend Sections 31316 and 31351 of the Public Resources Code, relating to the State Coastal Conservancy.~~ *An act to amend Section 787.1 of the Insurance Code, relating to insurance.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2717, as amended, Skinner. ~~State Coastal Conservancy.~~ *Insurance: agents and brokers: senior designation: use.*

*Existing law provides that a broker or agent may not use a senior designation unless he or she has met certain conditions, including, but not limited to, that the broker or agent has been granted the right and is currently authorized to use the senior designation by the organization that issues the designation, and the senior designation has been approved by the Insurance Commissioner for use by brokers and agents in the sale of insurance to seniors, as provided.*

*This bill would require that the commissioner approve a senior designation only if the organization that issues the designation satisfies specified requirements, including, but not limited to, accreditation standards, education and examination requirements, and having minimum standards and procedures regarding disciplining the organization's designees for improper or unethical conduct.*

*This bill would also make conforming changes and delete obsolete provisions.*

~~Existing law establishes the State Coastal Conservancy with prescribed powers and responsibilities for implementing a program of agricultural~~

land protection, area restoration, and resource enhancement within the coastal zone, as defined. Existing law authorizes the conservancy to undertake projects and award grants for activities that are compatible with the preservation, restoration, or enhancement of ocean, coastal, or watershed resources, or that facilitate environmental education related to these resources. These projects or activities may include, but are not limited to, exhibits or events emphasizing coastal, watershed, or ocean resource education, or maritime history or the development of related amenities and structures.

This bill would additionally include as projects low-impact development techniques that integrate stormwater management into site planning and design to reduce runoff, increase onsite infiltration, or filter pollutants at or near the source.

Existing law requires the conservancy to cooperate with the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, and other public agencies and with nonprofit organizations in ensuring the reservation of interests in real property for purposes of the conservancy, as well as for park, recreation, fish and wildlife habitat, historical preservation, or scientific study required to meet the objectives of the California Coastal Act of 1976, and in the case of San Francisco Bay, certain local plans.

This bill would additionally require this cooperation for purposes of coastal and marine water quality protection and enhancement, and to meet the California Ocean Protection Act, the strategic plan of the Ocean Protection Council, and regional plans.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 787.1 of the Insurance Code is amended
- 2     to read:
- 3     787.1. (a) The following definitions apply to this section:
- 4     (1) "Senior designation" means any degree, title, credential,
- 5     certificate, certification, accreditation, or approval, that expresses
- 6     or implies that a broker or agent possesses expertise, training,
- 7     competence, honesty, or reliability with regard to advising seniors
- 8     in particular on finance, insurance, or risk management.
- 9     (2) "Use" means utilizing a word, phrase, acronym, or logo, in
- 10    any oral or written communication from which a sale of insurance

1 to a senior may directly or indirectly result, that states or suggests,  
2 alone or in context, that a broker or agent holds a senior  
3 designation.

4 (b) (1) A broker or agent may not use a senior designation  
5 unless all of the following conditions have been met:

6 (A) The broker or agent has been granted the right to use the  
7 senior designation by the organization that issues the senior  
8 designation, and the broker or agent is currently authorized by the  
9 organization to use the designation.

10 (B) The senior designation has been approved by the  
11 commissioner for use by brokers and agents in the sale of insurance  
12 to seniors.

13 (C) The broker or agent has been licensed for at least four years  
14 *in any state or United States territory* to sell the types of insurance  
15 with which the designation is used.

16 (2) A broker or agent may not use a senior designation in a  
17 manner that misleads a person as to the significance of the senior  
18 designation. Each time a broker or agent uses a senior designation  
19 in a writing, the writing shall also contain the words “California”  
20 or “CA” next to “Insurance Agent” or “Insurance Broker Agent”  
21 and “License,” and these words shall be located immediately prior  
22 to the broker’s license number or the agent’s license number, in  
23 type that is in the same font and at least the same size as the type  
24 used for the senior designation. The requirements set forth in this  
25 subdivision are in addition to the requirements of Section 1725.5  
26 and shall apply regardless of whether the broker or agent is an  
27 insurance agent, as defined in Section 1621. For purposes of this  
28 paragraph, “writing” means business cards, written price  
29 quotations, and print advertisements distributed exclusively in this  
30 state.

31 (c) *The commissioner shall approve a senior designation only*  
32 *if the organization that issues the designation satisfies all of the*  
33 *following requirements with respect to the designation:*

34 (1) *The organization has applied for approval on a form*  
35 *prescribed by the commissioner.*

36 (A) *A designation shall not be approved if an incomplete*  
37 *application form is submitted to the department. The incomplete*  
38 *application shall remain on file for one year unless withdrawn by*  
39 *the applicant. After one year, a new application is required. The*  
40 *department shall notify the applicant when the application and all*

1 required supporting documents have been received; however,  
2 notification that an application is complete does not mean approval  
3 has been or will be granted. The department shall decide whether  
4 to approve a designation within 90 days of receiving a completed  
5 application and all required supporting documents and additional  
6 information. If the department initiates an investigation of an  
7 applicant on suspicion that grounds exist to deny the application,  
8 the 90-day period shall be tolled until the completion of the  
9 investigation. If, after the completion of the investigation, the  
10 applicant is referred to the department's legal division, the  
11 department shall have an additional 45 days from the date of the  
12 referral to issue a statement of issues pursuant to Section 11504  
13 of the Government Code, or to issue the approval.

14 (B) The department may require the filing of any supplementary  
15 documents and declarations it deems necessary to determine  
16 whether the prerequisites for approval have been met.

17 (C) An organization shall notify the department in writing within  
18 45 days following any material change in information recorded  
19 on the application form or in declarations or documents submitted  
20 along with it or in response to a department request.

21 (2) The designation is accredited by the National Commission  
22 for Certifying Agencies, or the organization or the designation is  
23 accredited by an agency that is on the United States Department  
24 of Education's list entitled "Accrediting Agencies Recognized for  
25 Title IV Purposes" and the agency is clearly and convincingly  
26 qualified to accredit an organization or designation involved with  
27 financial services provided to seniors.

28 (3) (A) The organization requires California candidates for  
29 the designation to pass examinations that are based on applicants  
30 with no prior insurance education or experience completing at  
31 least 75 hours of study covering at least the following topics:  
32 aspects of aging, health care coverage, long-term care insurance,  
33 financial planning for retirement, investments, estate planning,  
34 and ethics. Textbooks or other study materials may use chapter  
35 and subchapter titles that differ from those general topics as long  
36 as the essential content is the same.

37 (B) A designation may be approved without the organization  
38 that issues it establishing compliance with subparagraph (A) if,  
39 in the opinion of the commissioner, the organization has proven  
40 clearly and convincingly both of the following:

1     *(i) Its examinations ensure that its designees generally possess*  
2     *superior expertise in advising seniors in particular in finance,*  
3     *insurance, or risk management comparable to a designee who has*  
4     *completed a course of study pursuant to subparagraph (A).*

5     *(ii) Study material typically used to prepare for the examinations*  
6     *cover most of the topics recited in subparagraph (A).*

7     ~~(e)~~

8     ~~(d)~~ (1) In determining whether to approve a senior designation  
9     for use in the sale of insurance to seniors, the commissioner shall  
10    also ensure that the organization that issues the senior designation  
11    fulfills the following:

12    ~~(A) Requires applicants for the designation to complete a~~  
13    ~~minimum number of hours of education in topics approved by the~~  
14    ~~commissioner before granting them the right to use its senior~~  
15    ~~designation. The courses must be relevant to the sale of insurance~~  
16    ~~to seniors.~~

17    ~~(B)~~

18    (A) Is exclusively an educational or certification organization,  
19    and is not directly or indirectly, through an affiliate or partner,  
20    involved in selling insurance, nor receives any compensation  
21    directly or indirectly from any sale of insurance.

22    ~~(C)~~

23    ~~(B)~~ Maintains—reasonable standards and procedures for  
24    disciplining its designees for improper or unethical conduct, as  
25    established by proven complaints or by disciplinary action by a  
26    government licensing agency or a quasi-governmental licensing  
27    and regulatory organization. *The standards and procedures shall*  
28    *include, at a minimum:*

29    ~~(i)~~ A written procedure to receive, log, and conduct a  
30    preliminary review of complaints alleging improper, illegal, or  
31    unethical conduct.

32    ~~(ii)~~ Written standards for determining when a complaint  
33    warrants further investigation into the merits of the allegations  
34    contained therein.

35    ~~(iii)~~ Written standards and procedures to ensure that, once a  
36    complaint is determined to warrant further investigation, the  
37    investigation is diligently conducted.

38    ~~(iv)~~ Written standards for determining when to file disciplinary  
39    charges based on the results of an investigation.

1 (v) *Written standards and procedures to ensure due process in*  
2 *the adjudication of disciplinary charges by adjudicators who are*  
3 *fair, knowledgeable, and otherwise qualified.*

4 (vi) *Written standards and procedures for the imposition of*  
5 *appropriate sanctions, including, when warranted, revocation of*  
6 *the designation.*

7 ~~(D) Imposes reasonable continuing education requirements or~~  
8 ~~other means of periodically verifying a designee's knowledge and~~  
9 ~~skill, in order for designees to retain the senior designation in good~~  
10 ~~standing.~~

11 ~~(E)~~  
12 (C) Maintains a code of ethics for its *California* designees  
13 *consistent with that of one of the designations recited in Section*  
14 *1749.4.*

15 ~~(F) Maintains reasonable standards and procedures to test for~~  
16 ~~proper mastery of the knowledge and skill required to receive the~~  
17 ~~designation.~~

18 ~~(G) The commissioner may recognize an accredited organization~~  
19 ~~for the purpose of this subdivision when the organization has been~~  
20 ~~accredited by the American National Standards Institute, the~~  
21 ~~National Commission for Certifying Agencies, or an organization~~  
22 ~~that is on the United States Department of Education's list entitled~~  
23 ~~"Accrediting Agencies Recognized for Title IV Purposes" and the~~  
24 ~~certification, credential, or professional designation issued~~  
25 ~~therefrom does not primarily apply to sales and or marketing.~~

26 ~~(2) A senior designation shall not be approved by the~~  
27 ~~commissioner unless the courses required to earn it include, at a~~  
28 ~~minimum, material covering the following topics: insurance~~  
29 ~~products marketed to seniors; statutes, regulations, and case law~~  
30 ~~applicable to seniors; social, psychological, and medical issues of~~  
31 ~~seniors; and marketing of insurance to seniors, including when a~~  
32 ~~duty of good faith and fair dealing exists.~~

33 ~~(3) The commissioner shall consult with the curriculum board~~  
34 ~~created pursuant to subdivision (a) of Section 1749.1 regarding~~  
35 ~~the course material that should be deemed relevant to the sale of~~  
36 ~~insurance to seniors, and regarding the minimum number of hours~~  
37 ~~referred to in subparagraph (A) of paragraph (1) of subdivision~~  
38 ~~(c). The minimum number of hours required shall be at least 75.~~

39 ~~(d)~~

(e) (1) A word, phrase, acronym, or logo shall be deemed a senior designation if it contains the word “senior,” “Medicare,” “Medi-Cal,” ~~“retire,”~~ “mature,” “gerontology,” or “elder,” or any variation or synonym of one of these words within several words of the word “certified,” “chartered,” “registered,” “adviser,” “specialist,” “consultant,” “agent,” “broker,” “insurance,” “planner,” “professional,” “enrolled,” “accredited,” “analyst,” or “fellow,” or any variation or synonym of one of these words. A word, phrase, acronym, or logo may constitute a senior designation if it meets the definition in paragraph (1) of subdivision (a) regardless of whether it contains one of the words recited in this subdivision.

(2) A word, phrase, acronym, or logo shall not constitute a senior designation if it is a job title or description of an employee of a government entity, or of an organization with a contract with that government entity to provide free counseling to seniors.

(3) No exemption exists under this section for use of a senior designation that constitutes a job title or description or part of a job title or description, except as provided in paragraph (2) ~~of subdivision (d).~~

(4) An advanced academic degree, such as a Ph.D., M.B.A., or M.S., may be used without compliance with subdivision ~~(e)~~ (d), if the degree was awarded by an institution of higher education that has been accredited by an organization that is on the United States Department of Education’s list entitled “Accrediting Agencies Recognized for Title IV Purposes.”

~~(e)~~

(f) A violation of subdivision (b) by a broker or agent shall be grounds for suspension or revocation of the broker or agent’s license pursuant to Sections 1668 and 1738. Such a violation also shall be grounds for a cease and desist order and monetary penalty pursuant to Section 12921.8, as if the broker or agent had acted in a capacity for which a license was required but not possessed.

~~(f)~~

(g) Any person who grants to a California resident the right to use a senior designation that has not been approved by the commissioner, without reasonably attempting to determine whether California is one of the designee’s residences, shall be subject to a cease and desist order and monetary penalty pursuant to Section

1 12921.8, as if the person had acted in a capacity for which a license  
2 was required but not possessed.

3 ~~(g)~~

4 *(h)* The disciplinary and remedial authority recited in this  
5 subdivision shall be in addition to any other disciplinary and  
6 remedial authority included in this code.

7 ~~(h)~~

8 *(i)* Notwithstanding any other provision of this code, the criteria  
9 in Sections 1668 and 1668.5 apply to an organization that issues  
10 a senior designation, and the commissioner may deny or rescind  
11 approval of an organization issuing a senior designation based on  
12 that criteria.

13 ~~(i) On and after January 1, 2009, and on or before June 30, 2010,~~  
14 ~~notwithstanding subdivision (f), an organization may issue~~  
15 ~~designations, and an agent or broker who has complied with~~  
16 ~~subparagraphs (A) and (C) of paragraph (1) of subdivision (b) may~~  
17 ~~use a designation, as long as the commissioner has made a~~  
18 ~~determination that the organization, with respect to the designation,~~  
19 ~~has for the past four years continuously done the following:~~

20 ~~(1) Met the requirements of subparagraphs (B) to (F), inclusive,~~  
21 ~~of paragraph (1) of subdivision (c).~~

22 ~~(2) Met the requirements of paragraph (2) of subdivision (c).~~

23 ~~(3) Required at least 75 hours of education in topics relevant to~~  
24 ~~the sale of insurance to seniors before issuing the designation.~~

25 *(j)* The commissioner shall maintain a list of senior designations  
26 approved pursuant to ~~subdivision (c), and determinations made~~  
27 ~~pursuant to subdivision (i), subdivisions (c), (d), and (e)~~ and shall  
28 publish the current list on the Internet Web site of the Department  
29 of Insurance.

30 ~~(k) A broker or agent holding a designation that was obtained~~  
31 ~~before January 1, 2009, may continue to use that designation until~~  
32 ~~June 30, 2010, if the organization that issued the designation meets~~  
33 ~~the requirements of subdivision (c) or (i) and certifies in a letter~~  
34 ~~to the broker or agent that he or she has completed at least 75 hours~~  
35 ~~of education in topics relevant to the sale of insurance to seniors.~~

36 *(k)* *This section shall apply to all types of insurance, including*  
37 *those listed in paragraphs (1) and (2) of subdivision (c) of Section*  
38 *785, except those listed in paragraphs (3) to (7), inclusive, and*  
39 *paragraph (9) of subdivision (c) of Section 785 and subdivision*  
40 *(d) of Section 785.*



1     *(l) The commissioner may, upon receipt of a petition from an*  
2     *organization, issue written confirmation that a designation issued*  
3     *by that organization is exempt from the requirement of approval*  
4     *pursuant to this section. The commissioner may issue confirmation*  
5     *if the designation, according to its title or curriculum, or in its*  
6     *actual use, concerns almost exclusively subject matters other than*  
7     *insurance or financial services sold to seniors in particular.*

8     ~~SECTION 1. Section 31316 of the Public Resources Code is~~  
9     ~~amended to read:~~

10    ~~31316. Within the conservancy's jurisdiction pursuant to this~~  
11    ~~chapter and within urban coastal watershed areas, the conservancy~~  
12    ~~may undertake projects and award grants for activities that are~~  
13    ~~compatible with the preservation, restoration, or enhancement of~~  
14    ~~ocean, coastal, or watershed resources, or that facilitate~~  
15    ~~environmental education related to these resources. These projects~~  
16    ~~or activities may include, but are not limited to, exhibits or events~~  
17    ~~emphasizing coastal, watershed, or ocean resource education, or~~  
18    ~~maritime history, or the development of amenities and~~  
19    ~~infrastructure consistent with this chapter, including low-impact~~  
20    ~~development techniques that integrate stormwater management~~  
21    ~~into site planning and design to reduce runoff, increase onsite~~  
22    ~~infiltration, or filter pollutants at or near the source. These~~  
23    ~~techniques include the use of onsite stormwater capture, vegetated~~  
24    ~~swales, bioretention basins, and permeable pavement and soils for~~  
25    ~~new construction or retrofit projects.~~

26    ~~SEC. 2. Section 31351 of the Public Resources Code is~~  
27    ~~amended to read:~~

28    ~~31351. (a) The conservancy shall cooperate with the~~  
29    ~~commission, bay commission, and other public agencies and with~~  
30    ~~nonprofit organizations in ensuring the reservation of interests in~~  
31    ~~real property for purposes of this division, as well as for park,~~  
32    ~~recreation, fish and wildlife habitat, coastal and marine water~~  
33    ~~quality protection and enhancement, historical preservation, or~~  
34    ~~scientific study required to meet the policies and objectives of the~~  
35    ~~California Coastal Act of 1976 (commencing with Section 30000),~~  
36    ~~or a certified local coastal plan or program; the California Ocean~~  
37    ~~Protection Act (commencing with Section 35500) and the most~~  
38    ~~current adopted strategic plan of the Ocean Protection Council;~~  
39    ~~or, in the case of San Francisco Bay, the sites identified in the bay~~  
40    ~~plan, the Suisun Marsh Protection Plan, or in any other local plan~~

1 ~~that the bay commission determines to be consistent with those~~  
2 ~~plans; or, in coastal or coastal watershed areas not within the~~  
3 ~~coastal zone or San Francisco Bay, any other local or regional~~  
4 ~~plans.~~

5 ~~(b) The provisions of this division shall not diminish or~~  
6 ~~otherwise affect the authority of the bay commission to approve,~~  
7 ~~deny, or modify permits as provided in Section 66632 of the~~  
8 ~~Government Code.~~